

SUBCOMMITTEE NO. 2

Agenda

Sheila Kuehl, Chair
Bob Dutton
Alan Lowenthal



Wednesday, May 18, 2005
9:00 a.m.
Room 2040

Agenda (Part 1 of 2)

| <u>Item</u> | <u>Department</u> | <u>Page</u> |
|-------------|--|-------------|
| 0540 | Secretary for Resources..... | 2 |
| 3360 | California Energy Commission..... | 2 |
| 3600 | Department of Fish and Game | 3 |
| 3790 | Department of Parks and Recreation..... | 9 |
| 3560 | State Lands Commission..... | 10 |
| 3860 | Department of Water Resources | 12 |
| 3910 | Integrated Waste Management Board..... | 15 |
| 3930 | Department of Pesticide Regulation..... | 17 |
| 3980 | Office of Environmental Health Hazard Assessment | 18 |
| 8570 | California Department of Food and Agriculture..... | 19 |
| 8660 | Public Utilities Commission..... | 23 |

Resources—Environmental Protection—Energy

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

0540 Secretary for Resources

1. Local Projects

Background. Staff has been informed that funds from approximately 40 grants provided to counties to mitigate impacts of offshore oil/gas development and to improve coastal resources will not be expended before the end of the current year. In addition, all the funds related to a river parkway project will not be expended prior to the end of the current year and require reappropriation to make them available for expenditure in the budget year.

Staff Recommendation. Staff recommends that the Subcommittee approve the following budget bill language to extend the liquidation period for these funds:

0540-361 -- Extension of liquidation period, Resources Agency.
Notwithstanding any other provision of law, funds appropriated in the following citations shall be available for liquidation until June 30, 2006: 0540-Coastal Resources Grant Program.

0540-490
6015—River Protection Subaccount
Notwithstanding any other provision of law, the period to liquidate encumbrances for the the Maywood Riverfront Park from the following citation is extended to June 30, 2006
(1) Item 0540-101-6015(a), Budget Act of 2000 (Ch. 52, Stats. 2000).

3360 California Energy Commission

1. PIER Program

Background. The Public Interest Energy Research Development and Demonstration (PIER) program provides grant funds to public and private entities for research, development, and demonstration of electricity-related technologies. Recent legislation directed CEC to establish an independent review panel to evaluate the PIER program. The PIER program is scheduled to sunset in 2011.

Previous Subcommittee Direction. At the April 18 meeting of the Subcommittee, staff was directed to develop trailer bill language that requires the commission to develop a long-term workload and staffing plan for the PIER program. Staff adopted trailer bill language to develop a long-term workload and staffing plan for the PIER program at the May 17 meeting of the Subcommittee. The issue of shifting some portion of the PIER funds to the Air Resources Board for energy-related research on technologies that reduce the environmental impact of the state's energy infrastructure was held open.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Allocate \$7.5 million in natural gas PIER funds for air quality and energy related research that is expended pursuant to a plan jointly approved by CEC and the Air Resources Board and allocate 50 percent of the funds in any future years from natural gas PIER funds in a similar fashion.
- Adopt clarifying trailer bill language that PIER funds can be used for transportation-related energy research

3600 Department of Fish and Game

1. Chronic Funding-Related Problems at the Department

Background. The department has admitted that the funding base has not been changed to match the changes in the department's responsibilities and mission. Many of the new responsibilities under CEQA and other legislation were added to the department's responsibilities without adequate funding to implement and manage the new mandates. This under-funding of the department has been compounded by declining hunting and fishing revenues and increasing pressure on fish and wildlife habitats from human population growth.

This flawed funding structure has caused the department to shift resources away from basic fish and wildlife monitoring activities, data analysis, and land management, to the review of development and resource extraction projects that have potential impacts on fish and wildlife resources. The department has indicated that, over time, in the absence of adequate funding, this shift in resources has caused a degradation of the information on fish and wildlife and a backlog of environmental improvement work on department lands.

LAO Finds Fish and Game Preservation Fund Proposal Contrary to Current Law. The LAO has found that DFG has been overspending certain nondedicated accounts within the Fish and Game Preservation Fund for several years. DFG has utilized reserves from dedicated accounts within the Fish and Game Preservation Fund to make up the shortfalls. Expending dedicated revenues on activities other than those specified in statute is contrary to current law. The LAO finds that the 2005-06 budget proposal includes the expenditure of \$11 million from dedicated accounts for purposes other than those specified in statute.

Previous Subcommittee Direction. At the April 11 meeting of the Subcommittee the administration was directed to resubmit its budget proposal for the Fish and Game Preservation Fund. The new proposal was directed to be consistent with current law or to suggest statutory changes, if needed.

May Revision. The Governor proposes to make two adjustments to partially adjust the Fish and Game Preservation Fund so that it is consistent with current law. First, the administration proposes to reflect \$1.7 million in additional revenues to the Streambed Alteration Account to reflect increased Streambed Alteration Permit fees currently under development at the department that are set to be implemented in September. Second, the administration proposes to reduce across the board all of the programs funded by the non-dedicated funds in the Fish and Game Preservation Account by \$1.1 million.

These two actions reduce the imbalance among the various accounts by about \$1.7 million, which is over \$700,000 more than cited by the May Revision. The administration indicates that it proposes to address the remainder of the imbalances among the various accounts in the 2006-07 budget. Other dedicated accounts other than the Streambed Alteration Account have shortfalls, but the administration's proposal does not address these shortfalls.

LAO Recommendation. The LAO finds that the May Revision proposal has taken some steps to balance the Fish and Game Preservation Fund, but that the proposal does not balance the fund. The LAO recommends that the Legislature take further action in addition to adopting the May Revision proposals to balance the fund. These further actions include reducing expenditures in the Fish and Game Preservation Fund by \$1.123 million (largely by a technical adjustment of reducing the budgeted expenditures in various subaccounts to more accurately reflect planned expenditures as indicated by DFG) and increasing revenues (either through fees or other revenue sources). The LAO's recommendations are outlined in the following table:

| Fish and Game Preservation Fund Subaccounts - not in balance (2005-06 expenditures exceed revenues with no carry-over balance) | Increase Revenues (Fees or other source) | Reduce Expenditure Authority | Total Actions |
|---|---|-------------------------------------|----------------------|
| Herring Research and Management, 0200-17 | \$51 | \$90 | \$141 |
| Big Horn Sheep, 0200-11 | \$36 | \$130 | \$166 |
| Lake/Streambed, 0200-14 | | | |
| Commercial Salmon Stamp, 0200-05 | Consider increase of \$39,000 to cover reduced item; if not, reduce expenditure authority | | \$39 |
| Aquaculture, 0200-13 | \$35 | \$40 | \$75 |
| Ocean Resources Enhancement Hatchery, 0200-04 | \$462 | \$100 | \$562 |
| Commercial Augmented Salmon Stamp, 0200-06 | | \$702 | \$702 |
| Nondedicated | | \$61 | \$61 |
| Total Shortfall | \$633 | \$1,123 | \$1,746 |

Staff Recommendation. Staff recommends that the Subcommittee adopt the following adjustments to the Fish and Game Preservation Fund so that it is consistent with current law in the short term:

- Adopt the Governor's proposed May Revision amendments to the Fish and Game Preservation Fund.
- Adopt the LAO's proposed reductions in expenditure authority.
- Adopt budget bill language to direct DFG to raise fees to cover shortfalls identified in subaccounts identified by the LAO.

Staff recommends that the Subcommittee take the following actions to address long-term problems associated with the Fish and Game Preservation Fund and the overall ability of the department to meet its statutory mandates:

- Adopt supplemental report language (drafted by the LAO) that requires the department to report to the Legislature on corrective actions taken to balance the Fish and Game Preservation Account, including all of its subaccounts.
- Make a one-time augmentation to DFG's budget of \$200,000 General Fund to fund an independent contractor to assist DFG in re-evaluating and re-engineering its accounting systems to improve the accountability of the system so that activities are charged to the correct funds.
- Adopt supplemental report language (drafted by the LAO) that requires the department to report to the Legislature on its activities, funding sources, and outcomes to better determine which activities and statutory directions the department is fulfilling.

Furthermore, staff recommends that the Subcommittee adopt the following reforms to improve the funding base for the department:

- Adopt trailer bill language to implement landing fee reform. Commercial fishing programs at DFG are funded by landing fees. Currently, a few species, such as salmon, are taxed at a fairly high amount, but for most others the amount is almost negligible, even for many high value stocks. Landing fee reform would consist of creating a broad based Special Fund for all commercial fishing programs funded by an ad valorem fee assessed on the value of the fish landed. This reform could generate approximately \$6 million in additional revenues to support commercial fishing programs.
- Adopt trailer bill language to reform and increase collection of California Environmental Quality Act fees (commonly referred to as 3158 fees). This reform would overhaul the fee structure and collection practices so that projects are not improperly exempted from CEQA and to ensure that fees are charged projects according to size, complexity and environmental impact of the project. Reforms would also allow counties (who collect the fees on behalf of the state) to increase their handling fee to reflect the true handling costs (current law caps these charges).

Finally, staff recommends that the Subcommittee take the following actions to augment the department's base budget by \$7.7 million General Fund to improve enforcement of the state's environmental laws as envisioned by the Governor's Environmental Action Plan.

- Augment by \$5 million General Fund (ongoing) to fund 40 new warden positions, including the following budget bill language:

Provision 1:

It is the intent of the legislature that these funds be provided for the hiring of additional game wardens in order to ensure that California's natural environment is protected through tough enforcement of existing laws.

- Trailer bill language shall also be adopted that directs the department to address current game warden recruitment problems resulting from low salary levels.
- Augment by \$1 million General Fund (ongoing) to fund 7 new positions to restore the Native Trout program to its 1980 levels, including the following budget bill language:

Provision 1:

It is the intent of the legislature that these funds be provided for the purposes of protecting and preserving California's wild and heritage trout populations.

- Augment by \$1.7 million General Fund (ongoing) to fund 15 new positions to restore statewide review of timber harvest plans, including the following budget bill language:

Provision 1:

It is the intent of the legislature that these funds be provided for hiring of Fish and Game staff to review timber harvest plans in order to ensure that California's natural environment is protected through tough enforcement of existing laws.

2. Maximizing Federal Fisheries Restoration Grant Funds

Background. Since 1981, DFG has provided grant funds through the Fisheries Restoration Grant Program (FRGP) to landowners, public agencies (including DFG), and nonprofit groups to restore salmon and steelhead populations through improved habitat. The program funds a variety of different activities including education projects, on-the-ground restoration work, and field surveys by DFG.

About \$13 million in federal funds have been provided annually over the last several years for this purpose. However, in order to leverage federal funds, the state is required to provide a 25 percent match.

Governor's Budget. The department has indicated that approximately \$12 million in federal funds are available for grants from the Fisheries Restoration Grant Program in the budget year. However, it is not clear how the administration is leveraging these funds with the 25 percent required state match. Failure to provide matching funds would result in a loss of federal funds for fisheries restoration grants.

Previous Subcommittee Direction. At the April 11 meeting of the Subcommittee, action was withheld on the department's federal funds budget pending additional information regarding how the department plans to match available federal funds in the budget year.

Department Response. The department indicates that it needs \$4 million in state funds to leverage the maximum available federal fisheries restoration grant dollars for the budget year. The department indicates that it is using the following funding mix to leverage the federal funds:

- \$1.4 million from the department's General Fund, Environmental License Plate Fund and Fish and Game Preservation Fund allocations.
- \$2.5 million is estimated to be available through a reimbursement contract with the Wildlife Conservation Board.
- \$500,000 is also being pursued with the State Coastal Conservancy.

Staff Comments. Staff finds that the Governor's proposal to fund this program is about \$4 million less than it has been funded over the past several years. This is primarily due to the

liquidation of remaining bond funds and the suspension of current law that allocates tidelands oil revenues to salmon and steelhead recovery.

Staff Recommendation. Staff recommends that the Subcommittee augment the department's budget by \$8 million from tidelands oil revenues for salmon and steelhead restoration in the budget year. (See State Lands Commission item for conforming amendment.)

3. Office of Spill Prevention and Response

Governor's Budget. The Governor's budget provides \$31 million to support this program in the budget year. This is approximately \$2 million less than is provided in the current year due to a reduction in reimbursements.

The Governor's budget proposes to increase funding by \$8,000 from the Oil Spill Response Administration Fund to support equipment and training for a pipeline spill response team within the Inland Program of OSPR. The team will identify and locate pipelines that could pose major threats to the California environment and work to mitigate pipeline oil spills when they occur.

Previous Subcommittee Direction. At the April 11 meeting of the Subcommittee, action was withheld on the budget for the Office of Spill Prevention and Response and the department was directed to provide additional information on what it is doing to respond to DOF's recent audit on the program.

Department Response. The department has provided staff with information that addresses the following issues raised by the DOF audit:

- **Distributed Administration Charges High.** The DFG indicates that distributed administration charges related to the OSPR program are similar to distributed administration charges for other funds managed by the department. The DFG indicates that it is continuing to review its overhead methodology with DOF to see if any adjustments are possible.
- **Charges on Habitat Remediation Projects High.** The DFG indicates that it is following current state administrative process in setting its distributed administration charges on monies on deposit in funds managed by the department. The DFG indicates that it is continuing to review its overhead methodology with DOF to see if any adjustments are possible.
- **OSPR Fund Balance.** The DFG has indicated that the actual balance for the OSPR fund is only \$8 million. This is significantly lower than the balance suggested by the audit due to a one-time revenue increase that is not projected to be sustained in the budget year.

Staff Recommendation. Staff recommends that the Subcommittee approve this proposal as budgeted.

4. Marine Life Protection Act

Governor's Budget. The Governor's budget proposes \$500,000 from the Environmental License Plate Fund to support MLPA implementation in the budget year. This is the same level of funding that is estimated to be expended in the current year by the state. However, this funding is leveraging over \$2 million in private foundation expenditures.

Previous Subcommittee Direction. At the April 11 meeting of the Subcommittee action was withheld on the Marine Life Protection Act pending receipt and review of the draft framework document from the taskforce.

Department Response. The department has indicated that 2005-06 Marine Life Protection Act activities will be focused solely on processes to complete the master plan and support Central Coast working groups that will be drafting the plan for a pilot project in marine protected areas. The department indicates that implementation of the Act does not begin until after the reserves have been established, which will not be until 2006-07.

Staff Recommendation. Staff recommends approving this proposal as budgeted.

5. Yuba Feather Flood Protection Program

Background. The Yuba Feather Flood Protection Program was created in the Proposition 13 bond fund to address the serious threat to life and property along the Yuba/Feather River system. The bond allocated \$90 million for this program, \$70 million to the Department of Water Resources (DWR), and \$20 million to the Department of Fish and Game (DFG) for environment and wildlife mitigation projects. Approximately \$2.6 million of the \$70 million being implemented by DWR was set aside to reimburse local entities in Sutter County for their local share of cost-shared projects. The DWR has allocated approximately \$18 million of the funds to flood control projects as part of the Yuba Feather Flood Protection Program.

Previous Subcommittee Direction. At the April 25 meeting of the Subcommittee action was taken to approve \$34.9 million in Proposition 13 bond funds for DWR to continue implementation of the Yuba Feather Flood Protection program, including acceleration of proposed levee improvements for the Three Rivers Levee Improvement Authority. (The Three River levee improvements facilitate the construction of the controversial Plumas Lakes housing development.)

April Finance Letter. The Governor has submitted an April Finance letter requesting the allocation of \$11.6 million in Proposition 13 bond funds to implement environmental enhancement and mitigation measures related to the Yuba Feather Flood Protection Program. These funds will be used to fund the Feather River Levee Setback Project. The department is proposing to retain approximately \$347,000 of the funds to assure that specific environmental enhancement and mitigation measures will be incorporated in the design of the projects.

The department indicates that the set-aside funds will contribute to distributed administration and will fund management of contracts with the Yuba County Water Agency, Yuba County, and at

least one reclamation district to fund projects. The Department of Fish and Game has to approve specific projects before funding is provided.

Staff Recommendation. Staff recommends that the Subcommittee approve this proposal.

3790 Department of Parks and Recreation

1. Local Projects

Background. Staff has been informed that there are a number of park projects whose funds will not be encumbered prior to the end of the current fiscal year.

Staff Recommendation. Staff recommends that the Subcommittee adopt the following budget bill language to reappropriate the funds provided for this project in 2000.

3790-491 --- Reappropriation, Department of Parks and Recreation. The balance of the appropriation provided in the following citation is reappropriated for the purposes provided in the appropriation, and shall be available for encumbrance or expenditure until June 30, 2008:

0001 – General Fund

Item 3790-101-0001, Budget Act of 2000 (Ch. 52, Stats. 2000)

80.25 Recreational Grants

(184) Mendoncino Coast Recreation Park District: Fort Bragg Aquatic Center

3790-493—Reappropriation, Department of Parks and Recreation.

Notwithstanding any other provision of law, the period to liquidate the encumbrance of the following citation, subject to the following limitation, is extended to June 30, 2006.

0262—Habitat Conservation Fund

(1) Item 3790-101-0262 (1), Budget Act of 1999 (Ch. 50, Stats. of 1999), 80.25.001-Local Grants-Habitat Conservation Fund Program; provided that this reappropriation is limited to the \$325,000 grant to the Mid-Peninsula Regional Open Space District.

2. Staffing Augmentation and Deferred Maintenance

Background. As discussed at several times during the Subcommittee process this year the Department of Parks and Recreation has faced repeated General Fund reductions that have resulted in concerns about the ability of the department to provide adequate public access to its park facilities. Staff finds that the Subcommittee has raised many concerns regarding the

magnitude of the increase in park fees over the past several years without any real enhancements in the service provided to the public at its park facilities.

Previous Subcommittee Direction. At the May 17 meeting of the Subcommittee, staff augmented the department's budget by \$3 million for deferred maintenance activities.

Staff Recommendation. Staff recommends that the Subcommittee rescind the May 17 budget action related to additional funding for deferred maintenance and substitute an alternate recommendation. The alternate staff recommendation is to augment the state budget by \$8 million from tidelands oil revenues to establish up to 40 new park positions and for deferred maintenance activities. It is the intention of the Legislature that this augmentation be an ongoing augmentation. (See State Lands Commission item for conforming amendment.)

3. Hearst Acquisition Staffing

Governor's Budget. The budget includes \$1.3 million from the General Fund and 7 new positions to support the initial phase of management and operation of the state-owned properties, as well as terms and conditions of the conservation easement related to San Simeon Point, Ragged Point, and Pico Cove.

Previous Subcommittee Direction. At the April 18 meeting of the Subcommittee, action was withheld on the staffing for the Hearst acquisition pending receipt of additional information from the department regarding other recent park acquisitions and the staffing needs at other parks for start-up operations. Further discussion was had at the May 17 meeting of the Subcommittee and this item was held open.

Staff Recommendation. Staff recommends that the Subcommittee approve the proposal as budgeted.

3560 State Lands Commission

1. Tidelands Oil Revenues

Background. During the 2004 budget negotiations, staff found that the administration's estimates for tidelands oil revenues were far below what was anticipated due to higher than expected oil prices. The Governor proposed to sweep all of the tidelands oil revenues into the General Fund instead of allocating these funds to the resource priorities set in statute. The Legislature enacted a compromise position that shifted some money to the General Fund, but shifted additional revenues to other resource priorities. The 2004-05 budget allocated tidelands oil revenues in the following order:

- \$500,000 to the Marine Life Protection Act;
- \$165 million to the General Fund;
- \$10 million to ocean projects and \$2.7 million to parks projects in the City of Los Angeles;

- \$6.5 million for salmon and steelhead restoration;
- \$1.5 million for environmental review of stream flow requirements on mid-California coastal streams; and
- \$4 million for fish hatchery operations.

Previous Subcommittee Direction. At the March 14 meeting of the Subcommittee, budget bill language was adopted to extend the liquidation period for appropriations of tidelands oil revenues made in the 2004-05 budget.

At the May 9 meeting of the Subcommittee, further action was withheld on the allocation of tidelands oil revenues for the budget year, including making statutory changes to extend current allocations until after the May Revision. Staff also recommends that the Subcommittee direct staff to evaluate impacts of enacting legislation that would halt the City of Long Beach's deductions, including impacts on the City of Long Beach.

May Revision. The May Revision estimates that the state's Tideland Oil revenues will be \$47.3 million lower in the current year than anticipated in the 2004 budget and \$48 million lower in the budget year. The budget year reduction results in a negative impact on General Fund revenues in the budget year since the Governor proposed to sweep these revenues into the General Fund. The administration does not propose statutory changes that would restrict Long Beach from redirecting state Tidelands Oil revenues to an abandonment account.

Revenue Update. The May Revision does not impact what activities will be funded in the current year. Thus far, tidelands oil revenues that have been received have covered only the \$500,000 for the Marine Life Protection Act and \$140 million to the General Fund. The other allocations have not been made because sufficient revenues have not been received. The Commission estimates that \$5-8 million may be available to fund ocean projects and park projects in the City of Los Angeles. However, no other allocations will be likely.

Staff Recommendation. Staff recommends that the Subcommittee adopt revised budget bill language to amend the item that sweeps tidelands oil revenues into the General Fund in the budget year. This item is found under the Wildlife Conservation Board. Recommended budget bill language should be revised accordingly:

3640-401—Notwithstanding any other provision of law, revenues that would have been deposited in the Resources Trust Fund pursuant to Section 6217 of the Public Resources Code shall be allocated in the following order:

(1) \$8,000,000 shall be deposited into the State Parks and Recreation fund for the Department of Parks and Recreation Maintenance and Park Ranger staff and deferred maintenance. It is the intent of the Legislature that this augmentation be used to establish up to 40 new parks positions. These funds are intended to be ongoing.

(2) \$8,000,000 shall be deposited into the Salmon and Steelhead Trout Restoration Account for salmon and steelhead trout restoration projects authorized by Section 6217.1 of the Public Resources Code, including, but not limited to, projects that implement the Coho Salmon Recovery Plan.

(3) Any revenues remaining after expenditure for the purposes specified in paragraph (1) shall be deposited in the General Fund.

3860 Department of Water Resources

1. All-American Canal Lining

Governor's Budget. The budget includes \$59 million in General Fund monies to reimburse local water districts for costs associated with lining the All-American Canal.

Previous Subcommittee Direction. At the April 25 meeting of the Subcommittee action was withheld on funding for the lining of the All-American Canal. The department was directed to provide a more refined estimate of those funds actually needed in the budget year to reimburse local agencies for the activities to be funded by the Colorado River Management Account.

Department Response. The department indicates that all of the funds allocated for the lining of the All-American Canal will be needed in the budget year. However, staff finds that it is likely that a portion of the funds will not be needed due to delays in moving the projects forward.

Staff Recommendation. Staff recommends that the Subcommittee reduce the General Fund appropriated to fund the lining of the All-American Canal by \$5 million.

2. Extension of Liquidation Period—Proposition 13 Bond Funds

May Revision. The May Revision proposes to extend the liquidation period for various Proposition 13 bond funds. The specific amendments proposed include the following:

- **River Protection Subaccount.** The May Revision proposes to extend the liquidation period for the following three Proposition 13 bond funded projects from 2000-01:
 - **San Joaquin River Parkway and Restoration.** \$5.3 million is proposed for extension due to unresolved issues related to the final land acquisition being made by the Wildlife Conservation Board for the parkway.
 - **Kern River Restoration Project.** \$103,329 is proposed for extension due to design delays and project site conditions.
 - **Nature Conservancy Sacramento River Project.** \$2 million is proposed for extension due to delays in negotiating acquisition projects.
- **Water Conservation Account.** The May Revision proposes to extend the liquidation period for the following three Proposition 13 bond funded programs from 2000-01:
 - **Groundwater Recharge Program.** \$232,637 is proposed for extension to complete construction loan contracts and feasibility studies.
 - **Urban Water Conservation Grant Program.** \$117,226 is proposed for extension to complete construction grant contracts under this program.

- **Agricultural Water Conservation Program.** \$32,058 is proposed for extension to complete construction grant contracts and feasibility studies under this program.

The May Revision also proposes to extend the liquidation period for the following three Proposition 13 bond funded programs from 2002-03:

- **Infrastructure Rehabilitation Program.** \$10.4 million is proposed for extension to complete construction projects and feasibility studies for projects in economically disadvantaged communities.
 - **Agricultural Water Conservation Program.** \$43,000 is proposed for extension to complete construction grant contracts and feasibility studies under this program.
 - **Urban Water Conservation Grant Program.** \$15.6 million is proposed for extension to complete construction grant contracts to improve water use efficiency.
- **Conjunctive Use Subaccount.** The May Revision proposes to extend the liquidation period for \$4.6 million in Proposition 13 bond funds from 2000-01 and \$2.2 million in Proposition 13 bond funds from 2002-03 for construction grant contracts and feasibility studies under the Groundwater Storage Program.
 - **Interim Water Supply and Water Quality Infrastructure and Management Subaccount.** The May Revision proposes to extend the liquidation period for \$2.4 million in Proposition 13 bond funds from 2002-03 to complete a contract with Santa Clara Valley Water District on the San Luis By-Pass project for the Interim Water Supply and Water Quality Infrastructure and Management Program.

Staff Recommendation. Staff recommends that the Subcommittee approve the proposed May Revision proposal to extend liquidation of various bond funds.

3. Reversion of Proposition 13 Bond Funds

May Revision. The May Revision proposes to revert Proposition 13 bond funds that have not been expended. These funds are being reverted because they were found to not be needed for the projects that they were originally appropriated to fund. These funds are now available for future expenditure on new projects.

| Program/Account | Amount | Fund Source | Year Appropriated |
|---|-----------------|--------------------|--------------------------|
| Water Conservation Account (local assistance) | 29,907 | Prop 13 | 2000-01 |
| Water Conservation Account (state operations) | 104 | Prop 13 | 2001-02 |
| Water Conservation Account (local assistance) | 13,887 | Prop 13 | 2001-02 |
| Water Conservation Account (local assistance) | 14,526 | Prop 13 | 2002-03 |
| Water Conservation Account (state operations) | 23 | Prop 13 | 2003-04 |
| Water Conservation Account (local assistance) | 8,970 | Prop 13 | 2003-04 |
| Total Water Conservation Account | \$67,416 | | |

| Program/Account | Amount | Fund Source | Year Appropriated |
|---|-----------------|--------------------|--------------------------|
| Conjunctive Use Subaccount | 0.1 | Prop 13 | 2000-01 |
| Conjunctive Use Subaccount | 76,537 | Prop 13 | 2002-03 |
| Conjunctive Use Subaccount | 218 | Prop 13 | 2003-04 |
| Total Conjunctive Use Subaccount | \$76,755 | | |

| Program/Account | Amount | Fund Source | Year Appropriated |
|---|----------------|--------------------|--------------------------|
| Interim Water Supply and Water Quality Infrastructure | 1,999 | Prop 13 | 2002-03 |
| Interim Water Supply and Water Quality Infrastructure | 194 | Prop 13 | 2003-04 |
| Total Interim Water Supply and Water Quality | \$2,193 | | |

Staff Recommendation. Staff recommends that the Subcommittee approve the reversion of the Proposition 13 bond funds.

4. San Joaquin River Restoration Project

Governor's April Finance Letter. The April Finance letter proposed to revert the remaining \$9.2 million in Proposition 13 bond funds that were appropriated in 2000 and awarded to FWUA to develop a restoration plan for the river. The DWR also proposed to expend \$1.8 million of the Proposition 13 bond funds being reverted to support two positions and manage contracts to complete the studies started in 2000.

Previous Subcommittee Direction. At the April 25 meeting of the Subcommittee, action was taken to revert \$9.2 million in Proposition 13 bond funds that were on deposit at the FWUA. The Subcommittee also rejected the April letter proposal to expend \$1.8 million to continue to fund the restoration study since the court-ordered plan for restoration is still being developed. Furthermore the department was directed to report on what other funds need to be reverted from the FWUA and what steps DWR has put in place to avoid potential arbitrage situations.

Department Response. The department has provided additional information regarding the funds on deposit with FWUA. Staff understands that the remaining funds on deposit with FWUA are to be returned as soon as possible. The department has provided staff with additional information regarding the legal arrangements and disposition of the bond fund money that was on deposit at FWUA and staff no longer has concerns regarding potential arbitrage issues.

Since the action taken at the Subcommittee on April 25, the department has submitted an alternative proposal for funding San Joaquin River restoration activities in the budget year. The department now proposes to focus approximately \$1 million in the budget year on water quality, fish passage, and habitat restoration activities. However, staff continues to have concerns regarding what the department would actually be doing with these funds in the budget year. The information provided by the department does not include sufficient specifics on the activities it would undertake.

Furthermore, legislation is currently moving through the policy process that would better define plans and activities to be undertaken for restoration of the San Joaquin River. Staff finds that funds could be included in legislation if needed in the budget year.

Staff Recommendation. Staff does not recommend any changes to the previous Subcommittee action on this item at this time.

3910 Integrated Waste Management Board

1. Implementation of Electronic Waste Recycling Program

Governor's Budget. The administration proposes converting 6 limited-term positions to permanent positions funded by \$476,000 from the E-Waste fund. The total funding proposed for administration of the E-Waste program at the Waste Board is \$1.4 million.

Total administrative costs associated with the E-Waste program are \$8.2 million. This accounts for about 12 percent of the total E-Waste program total revenues. Administrative costs are allocated in the following way:

- Board of Equalization - \$5.7 million
- Waste Board - \$1.4 million
- Department of Toxic Substance Control - \$651,000
- Department of Finance - \$500,000

Previous Subcommittee Direction. At the April 4 meeting of the Subcommittee action was taken to approve the Waste Board's request associated with ongoing support of the E-Waste program and staff were directed to coordinate with Budget Subcommittee No. 4 on the evaluation of BOE's proposal.

Staff Comments. The BOE communicated to staff that it would put forward a lower, revised E-Waste budget in the May Revision. The BOE did not submit a revision. Staff will continue to coordinate with Subcommittee No. 4 to ensure that a reduced BOE administrative budget that better reflects the funding it actually needs in the budget year is adopted.

Furthermore, in a meeting with BOE staff found that funding BOE's activities through a reimbursable contract with the Waste Board would be acceptable in future budget years. This would be a preferable arrangement since it would require BOE to be accountable to the Waste Board, which is the lead agency on implementing the E-Waste law.

Staff Recommendation. Staff recommends that the Subcommittee request that Subcommittee No. 4 include the following budget bill language in BOE's E-Waste item:

- It is the intent of the Legislature that the 2006-07 budget be prepared to include BOE's support budget for the E-Waste program through a reimbursable contract with the Integrated Waste Management Board.

2. Environmental Education Program

Background. The Education and Environment Initiative was created by Chapter 665, Statutes of 2003 (AB 1548, Pavley), which mandated school boards to include environmental principles in their instructional materials. Thus far, the administration has completed the first two phases of the Education and Environment Initiative, which includes the development of environmental principles and concepts and the alignment of the environmental principles and concepts to the California Academic Content Standards.

Governor's Budget. The administration requests \$3.5 million (\$3.3 million from the Integrated Waste Management Account and \$200,000 from the Waste Discharge Permit Fund) and 5.5 permanent positions to implement the next two phases of the Education and Environment Initiative.

Previous Subcommittee Meeting. At the March 14 meeting of this Subcommittee, staff was directed to work with the LAO, DOF and the Office of the Secretary at Cal-EPA to develop options for funding this activity from more diversified funding sources.

April Finance Letter. The letter proposes budget bill language that would condition the expenditure of funds for the Education and Environment Initiative on the implementation of legislation that does the following:

- Eliminates the mandate imposed on governing boards to include specific environmental education materials as part of the adopted instructional materials.
- Clarifies the roles of the implementing agencies in the development of the textbook criteria and material.
- Adds language to the Water Code to clarify that dischargers can contribute funds to the Environmental Education Account.
- Adds language to allow state agencies who develop, or encourage the development of, environmental education materials to contribute to the Environmental Education Account.

Mandate Issue. The administration's proposed budget bill language requires that legislation be enacted that eliminates the mandate requirements of the Education and Environment Initiative prior to expenditure of funds on this activity. Issues related to this mandate were raised in 2004 and legislation was put forward to eliminate the mandate. This legislation (AB 1696, Pavley) was vetoed by the Governor finding that the bill was beyond the scope of the clean up required to eliminate the mandate. Currently, AB 1721 (Pavley) contains language that would address this issue.

Staff Recommendation. Staff recommends that the Subcommittee:

- Adopt supplemental report language that requires the Office of the Secretary for Cal-EPA to put forward a more balanced approach to funding this program.
- Adopt the following budget bill language amendments that would ensure that legislation be enacted to address issues related to the mandate established by the legislation and other issues related to this program. The budget bill amendments include the following:

Delete Provision 1 of Item 3910-001-0193 and Provision 3 of Item 3910-001-0387 and insert the following language:

Item 3910-001-0193:

Provision 1:

Of the amount appropriated by this item, \$200,000 shall be available to support development of the Education and Environment Initiative. The funds shall become available no sooner than the chaptering of AB 1721 of 2005.

Item 3910-001-0387:

Provision 3:

Of the amount appropriated by this item, \$3,300,000 shall be available to support development of the Education and Environment Initiative. The funds shall become available no sooner than the chaptering of AB 1721 of 2005.

3930 Department of Pesticide Regulation

1. Undercollection of Mill Assessment

Background. California assesses a fee on all pesticides (agricultural and nonagricultural) at the point of first sale in the state. This fee is paid either by the pesticide manufacturer, distributor, or retailer. The current mill assessment rate is 21 mills (2.1 cents per dollar of sales). Mill assessment revenues are the major source of funding for the state's pesticide regulatory program.

The administration is sponsoring legislation (AB 1011, Matthews) that would require all sellers of pesticide products labeled for use in the home and other nonagricultural settings (consumer pesticides) to be subject to licensing requirements.

Previous Subcommittee Direction. At the April 4 meeting of the Subcommittee, the department was directed to report on its rationale for recommending AB 1011 (Matthews) as the solution to the state's undercollection problem. Also, the administration was directed to provide details on how they plan to implement their recommended solution.

Department Response. The staff has met with the department and various stakeholders on this issue. There are widespread concerns regarding the department's ability to successfully collect mill revenues from the "big box" stores that are currently not paying the mill assessment. The complex distribution systems employed by the "big box" retailers make tracking and auditing pesticides sales more complex and difficult. Staff finds that compliance may be enhanced by having a typical collection-type agency collect this fee from the retailers. Tax collecting agencies like BOE are accustomed to this type of work and have the auditing staff to uncover fraud and undercollection problems. It is not clear that these resources currently exist at the department.

Staff Recommendation. Staff recommends that the Subcommittee:

- Adopt trailer bill language to require all entities that are the first to sell pesticides in the state to be subject to licensing requirements and to require that the department contract with BOE for the collection of the mill assessment fee.

3980 Office of Environmental Health Hazard Assessment

1. Funding Adequacy

Governor's Budget. The Governor's budget proposes that the General Fund support approximately 60 percent of OEHHA's activities and special funds support the remaining 40 percent.

Alternative Funding Sources. The LAO has identified three funding sources that would be appropriate to support OEHHA's activities in the budget year. These funding sources are directly linked to activities planned at the office in the budget year. The LAO recommends that the Legislature consider the following funding shifts from the General Fund:

- \$1.5 million – for activities related to supporting the Department of Health Services' safe drinking water program from the Safe Drinking Water Account.
- \$800,000 – for activities related to various air quality regulatory programs from the Air Pollution Control Fund.
- \$500,000 – for activities that support fish contamination evaluation and advisories from the Fish and Game Preservation Fund.

The LAO notes that the Air Pollution Control Fund has a balance that could support this transfer. However, the other two funding sources do not have sufficient balances to support this shift without increases in fees or a redirection of monies from other activities.

Previous Subcommittee Direction. At the April 4 meeting of the Subcommittee staff, the LAO, and the administration were directed to review the administration's recent report on the budgetary needs of the office to meet its statutory mandates. Staff was also directed to identify alternative funding sources for the office.

OEHHA's Funding Needs. The Office submitted to the Legislature a legislatively mandated report of long-term baseline funding requirements in the first part of April. This report identifies a \$6 million funding shortfall as compared to 2005-06 budgeted expenditures for OEHHA to meet its statutory mandates. The report also identified eligible funding sources for supporting OEHHA's statutory mandates. However, the administration does not recommend any augmentations to OEHHA's budget at this time because there are no balances in special funds available to meet OEHHA's funding needs on an ongoing basis without a fee increase.

Staff Comments. Staff finds that there are many important activities at OEHHA that are not fully funded. OEHHA's work is critical to a significant amount of the regulatory work done by the state regarding the impacts of our environment on human health.

Staff Recommendation. Staff recommends that the Subcommittee:

- Augment \$1 million from the General Fund to establish 5 new positions to fund OEHHA's children's health program and other statutory mandates.
- Augment \$250,000 from the Waste Discharge Permit Fee Fund to establish 2 new positions to address deficiencies in the department's fish health program.
- Augment \$250,000 from the Department of Pesticide Regulation Fund to establish 2 new positions to support the department's pesticide related activities, including work related to the new risk assessment panel approved by the Subcommittee on May 17.

8570 California Department of Food and Agriculture

1. Mediterranean Fruit Fly Preventative Release Program

Background. The Mediterranean Fruit Fly (Medfly) Preventative Release program involves raising sterile Medflies and releasing them within high risk areas of the state (currently a 2,500 square mile area in the L.A. basin). These sterile Medflies mate with any wild fertile female flies that have been introduced into the area and curb the reproduction process.

Governor's Budget. The administration proposes to establish the Medfly Preventative Release program as a permanent ongoing program with an \$8.1 million General Fund allocation. These state funds are matched with the same level of funding from the federal government. The administration does not propose any industry assessment to support this program.

April Finance Letter. The letter proposes \$84,000 from the General Fund to fund a price increase not included in the Governor's January 10 proposal to permanently fully fund the Mediterranean Fruit Fly Preventative Release Program with the General Fund.

Previous Subcommittee Meeting. At the March 14 meeting of this Subcommittee, supplemental report language was adopted that requires CDFA to do a survey of all of the activities and funding of the various commodity specific boards under its jurisdiction. The report should identify similar activities being funded by industry assessments that may be more effectively carried out by centralizing efforts at the department.

Staff Recommendation. Staff recommends that the Subcommittee adopt the budget proposal to provide ongoing General Fund support for the Medfly program.

2. Pierce's Disease Control Program

Background. The Pierce's Disease Control Program is a statewide program to minimize the impacts of Pierce's disease on the state's grape industry. This disease is fatal and incurable to grapevines and is spread by the glassy-winged sharpshooter. The program includes stopping the spread of the sharpshooter, monitoring the state for signs of new infestations, suppressing and eradicating isolated sharpshooter populations, conducting outreach and education, and supporting research to find a long-term solution to this disease.

Governor's Budget. The budget includes \$25.8 million to support the Pierce's disease program in the budget year. This is approximately the same level of support as provided in the current budget year. This includes (1) \$4.3 million from the General Fund, (2) \$13.3 million from federal funds, and (3) \$8.2 million from assessments on grape producers.

Federal Funding Contingency. Staff has been informed that commitments were made during the authorization of the 2004 federal funding for the Pierce's disease program to allocate \$250,000 on a one-time basis to the U.C. Cooperative Extension in Kern County. These funds will be used to convert warehouse space to laboratory space to accommodate the processing of samples and research experiments that minimize the impacts of Pierce's disease on the grape industry.

Staff Recommendation. Staff recommends that the Subcommittee adopt budget bill language to clarify the commitments regarding federal funds provided for the Pierce's disease program in the budget year. The following provision should be added to item 8570-011-0890:

2. The Secretary of the Department of Food and Agriculture shall authorize a one-time transfer of two hundred and fifty thousand dollars (\$250,000) from the Pierce's Disease Management Account to the University of California's Cooperative Extension Service for use in making improvements to the Kern County Office of U.C. Cooperative Extension.

3. Laboratory System Upgrades

Governor's Budget. The budget includes \$1.3 million General Fund to eliminate the current backlog of deferred purchases to replace obsolete equipment and to perform needed maintenance on the state's veterinary diagnostic laboratory system.

Staff Recommendation. Staff recommends that the Subcommittee approve this proposal as budgeted.

4. Emerging Threats to Food Production

Governor's Budget. The administration has proposed \$2.7 million General Fund and 17 positions to support activities to address potential terrorist attacks on the state's food supply, as well as emerging viral diseases that affect both animals and humans. The proposal assumes that this is the first step in the development of a larger program and has indicated that full implementation in 2006-07 could cost an additional \$15.9 million from the General Fund.

Previous Subcommittee Direction. At the March 14 meeting of the Subcommittee, the Department of Finance was directed to coordinate its proposals related to terrorism protection and emerging viral diseases and resubmit its proposals. The proposal should maximize non-General Fund resources to the maximum extent possible.

Staff Comments. The administration has not provided a revised proposal related to terrorism protection and emerging viral diseases as requested by the Subcommittee in March. Staff finds that the administration is missing an opportunity to increase the cost effectiveness of the state's bioterrorism efforts by this oversight.

Staff Recommendation. Staff recommends that the Subcommittee:

- Approve \$500,000 General Fund to establish 5 new positions at the department to initiate a strategic approach to addressing emerging threats to the state's food supply. At least one of these staff should be used to coordinate the department's activities with other state agencies, federal agencies and other groups involved in protecting the state from terrorist attacks and the spread of viral disease.

5. Unallocated Reduction

Background. The Governor's budget proposes that the department take a \$1.2 million unallocated reduction to its General Fund state operations budget. The Governor's budget also proposes an unallocated reduction of \$597,000 General Fund from its local assistance to County Agricultural Commissioners.

Staff Recommendation. Staff recommends that the Subcommittee restore the unallocated reduction to the County Agricultural Commissioners and reduce the department by an additional \$597,000.

6. Specialty Crop Grant

May Revision. The May Revision proposes to appropriate \$11.6 million in federal specialty crop grant funds received in the current year. Approximately \$3.3 million in federal specialty crop grant funds are in the Governor's January budget for a total of \$14.8 million available for expenditure in the budget year. The \$11.6 million proposed for appropriation in the May Revision were the subject of a Section 28.00 letter that was rejected by the Joint Legislative Budget Committee in the current year. These funds must be expended prior to September 30, 2006 and can be used for a wide variety of activities. The administration proposes to expend these funds in the following manner:

| | |
|-------------------------------|---------------|
| Buy California | \$3.6 million |
| International markets | \$2.6 million |
| Grant management/admin | \$2.1 million |
| Competitive grants | \$2.0 million |
| Food safety | \$1.5 million |
| Emergency response | \$1.4 million |
| Institute for specialty crops | \$0.7 million |
| Research | \$0.4 million |
| Sustainable agriculture | \$0.3 million |
| Other | \$0.1 million |

Staff Comments. Staff notes that the administration is proposing to use approximately \$3 million for activities that address emerging threats.

Staff Recommendation. Staff recommends that the Subcommittee approve this proposal as budgeted.

7. Technical Adjustments

May Revision. The May Revision contains the following price adjustments to its base budget:

- Increase \$10,000 General Fund and decrease \$20,000 reimbursements associated with lease revenue bond debt service payments for capital outlay projects.
- Decrease \$17,000 General Fund and increase \$17,000 reimbursements to shift funding source for a capital outlay project funded by lease revenue bonds.

Staff Recommendation. Staff recommends that the Subcommittee approve the department's technical adjustments.

8. Agricultural Cooperative Bargaining Advisory Committee Elimination

May Revision. The May Revision proposes trailer bill language that would eliminate the Agricultural Cooperative Bargaining Advisory Committee. This committee protects an agriculture grower's right to organize and bargain with food processors on commodity prices and

delivery terms. This Committee makes recommendations to the Secretary of CDFA on matters related to the state cooperative bargaining association laws.

Staff Comments. Staff finds that AB 1061 is currently moving through the Legislature to address the future of this Committee.

Staff Recommendation. Staff recommends that the Subcommittee reject this proposal since it is currently being addressed through a bill in the policy process.

8660 Public Utilities Commission

1. Office of Ratepayer Advocates

Background. The Office of Ratepayer Advocates (ORA) was created in 1985 to represent ratepayers in CPUC proceedings. In the mid-1990s, ORA evolved into a quasi-independent entity when the Legislature required that the ORA director receive independent confirmation by the Senate and required a separate line-item budget to be submitted. Until this year, however, the administration has not submitted a line-item budget separate from the primary CPUC budget.

Previous Subcommittee Direction. At the April 18 meeting of the Subcommittee, staff, the LAO, DOF, ORA, and CPUC were directed to develop a proposal to provide ORA with additional autonomy over its budgetary and personnel resources and additional funding to augment the role of ORA at the commission.

Staff Recommendation. Staff recommends that the Subcommittee:

- Adopt trailer bill language that will clarify ORA's ability to present a budget to the Commission in a public proceeding. Public Utilities Code Section 309.5 already specifies that the CPUC's budgeting process regarding ORA must be made through rule or order, which implies a public process. This language will clarify the extent of ORA's role in this proceeding.
- Adopt trailer bill language that will specify that the director of ORA is provided with the authority to supervise the legal staff assigned to ORA and that general counsel will assign at least 14 attorneys specifically to ORA. The ORA may, of course, choose to use temporarily assigned legal staff to provide specific expertise in individual cases or to address workload peaks. Under this system, ORA legal staff will continue to retain their full civil service status within the PUC and may seek transfers or promotions freely.
- Augment ORA's budget by \$1.2 million from the Utilities Reimbursement Account and restore 12 positions (reduced as part of the 4.10 reductions) in the telecommunications division of ORA.
- Augment ORA's budget by \$1 million from the Utilities Reimbursement Account for telecommunications merger review contracts, pursuant to the SBC/ATT merger, with accelerated contracting schedules (pursuant to PU Code Section 632). The \$1 million will be reimbursable to the state pursuant to PU Code Section 631.

- Adopt trailer bill language that will specify that the ORA's review of the SBC/ATT merger must be completed before a proposed decision can be issued.

2. Railroad Safety

Background. The Railroad Safety Branch of the Consumer Protection and Safety Division of the CPUC has safety oversight of heavy freight and passenger railroads. The commission conducts rail safety inspections, investigates rail accidents, approves all applications for new construction or modifications to existing highway/rail crossings, and develops new safety initiatives based on inspection and investigative activities.

A recent court case stated that the CPUC did not have regulatory jurisdiction over railroad operating practices. Therefore, in order to affect these practices, applications must be made to the Federal Railroad Administration which has regulatory jurisdiction over the operations of heavy freight and passenger railroads.

Previous Subcommittee Direction. At the April 18 meeting of the Subcommittee, the Commission was directed to provide information on how it plans to fund activities to implement the strategic plan recently completed by the commission.

Staff Recommendation. Staff recommends that the Subcommittee restore 13 positions (reduced as part of the 4.10 reductions) at a cost of \$1.2 million from the Transportation Rate Fund.

3. Technical Adjustments

May Revision. The May Revision proposes the following technical adjustments to the CPUC's budget:

- Increase the Transportation Rate Fund by \$6,000 and decrease reimbursements by \$5,000, increase the PUC Transportation Reimbursement Account by \$22,000 and decrease reimbursements by \$21,000, increase the PUC Utilities Reimbursement Account by \$185,000 and decrease reimbursements by \$170,000 for lease revenue bond debt service adjustments.
- Decrease the Transportation Rate Fund by \$1,000 and increase reimbursements by \$1,000, decrease the PUC Transportation Reimbursement Account by \$4,000 and increase reimbursements by \$4,000, decrease the PUC Utilities Reimbursement Account by \$28,000 and increase reimbursements by \$28,000 to offset lease rental debt payments.

Staff Recommendation. Staff recommends that the Subcommittee approve the technical budget adjustments.